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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,121	05/12/2005	Wayne Austin	U 015424-9	2346
140	7590	03/31/2008	EXAMINER	
LADAS & PARRY LLP 26 WEST 61ST STREET NEW YORK, NY 10023			EPPES, BRYAN L	
			ART UNIT	PAPER NUMBER
			3635	
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				PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/512,121	AUSTIN, WAYNE	
	<b>Examiner</b>	<b>Art Unit</b>	
	BRYAN EPPES	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 June 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/12/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

This is a first office action on the merits for application serial number 10/512121 filed 5/12/2005. Claims 1-22 are pending.

### ***Claim Objections***

1. Claims 19 and 22 are objected to because of the following informalities: Lack of proper antecedent basis for the phrase “each glass panel” when only one has been claimed. Appropriate correction is required.
  
2. Claim 22 is objected to because of the following informalities: Improper dependency, it appears applicant intended claim 22 to depend from claim 21, not 22. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Idland (U.S. Pat. 4,614,070).

- a. Claim 1. Idland discloses a device for supporting a glass panel comprising:
  - i. A anchor member 1; and
  - ii. A mounting member 2 and 4 having a first portion 2 and second portion 4 having means, described as screws (Col 3 Line 5), for locking a glass panel to the mounting member via a glass panel hole (Figs. 1-3).

Note that the limitation "adapted for/to" requires only the capability to perform in such a fashion, and does not require the feature positively disclosed.
- b. Claims 2 and 3. Idland discloses the second portion 4 with two spaced holes (Figs. 1-3).
- c. Claim 4. Idland discloses wherein the two mounting holes are arranged to be spaced vertically (See Figs. 1-3).
- d. Claim 5. Idland discloses wherein the second portion 4 forms a slot, shown as the space between the vertical support plates for supporting an article (See Figs. 1-3).
- e. Claim 6. Idland discloses a pair of mounting holes on opposite sides of the slot (See Figs. 1-3).
- f. Claim 10. Idland discloses the slot formed between two side sections 4 of the mounting member which are attached to opposite sides of a middle section 2 (Fig. 1).
- g. Claim 11. Idland discloses the middle section 2 including a threaded bore 3a (Fig. 1).

h. Claim 12. Idland discloses the anchor member 1 having an elongated portion 1a and base, shown as the unthreaded portion of anchor member 1 (See Fig. 1).

i. Claim 13. Idland discloses the first portion 2 adapted to receive anchor member 1, shown via the threaded bore 3a, for adjustably mounting the mounting member relative to the anchor member (See Fig. 1).

j. Claim 14. Idland discloses the anchor member 1 elongated portion 1a as threaded (Fig. 1).

5. Claims 1-3, 21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Liu (U.S. Pat. 6,648,544).

k. Claim 1. Liu discloses a device for supporting a glass panel comprising:

iii. A anchor member 32; and

iv. A mounting member 11 and 12 having a first portion 11 and second portion 12 having means, shown as screws 1223, for locking a glass panel to the mounting member via a glass panel hole (Figs. 1-3).

l. Claim 2. Liu discloses at least one hole in the second portion 12 wherein an attachment member can be inserted (Fig. 2).

m. Claim 3. Liu discloses the mounting member including two spaced holes for supporting a glass panel (See Figs. 2 and 3).

n. Claim 21. Liu discloses a glass panel fence including a glass panel 2 having at least one mounting hole at a bottom portion thereof mounted to the device (Fig. 3).

o. Claim 22. Liu discloses a glass panel fence having two supporting devices, upper and lower, supporting a glass panel 2 (Fig. 3).

6. Claims 1-14 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Burke et al. (U.S. Pat. 5,079,798).

p. Claim 1. Burke et al. (hereinafter Burke) discloses a device for supporting a glass panel comprising:

v. A anchor member 108; and

vi. A mounting member 92,94,96 having a first portion 96 and second portion 92, 94, having means, described as screws, a space 104 and cement, for locking a glass panel to the mounting member via a glass panel hole, described as a notch (Fig. 10; Col. 2 Line 48).

q. Claim 2. Burke discloses wherein the mounting member includes at least one mounting hole formed in the second portion 92, 94, shown as the hole surrounding screw 98 (Fig. 10).

r. Claim 3. Burke discloses wherein the mounting member includes two spaced holes, shown as the holes surrounding screws 98 and 100 (Fig. 10).

s. Claim 4. Burke discloses wherein the mounting member two holes are arranged to be spaced vertically, for example when mounted on a side wall.

- t. Claim 5. Burke discloses wherein the second portion 92, 94 forms a slot 104 (Fig. 10).
- u. Claim 6. Burke discloses wherein the second portion includes aligned holes on both 92 and 94, shown as the holes surrounding screws 98 and 100 (See Fig. 10).
- v. Claim 7. Burke discloses wherein the hole on side 92 is threaded (See Fig. 10).
- w. Claim 8. Burke discloses wherein the hole on side 94 is countersunk (See Fig. 9 Ref. 30a).
- x. Claims 9 and 21. Burke discloses wherein the slot 104 has a width greater than a glass panel since the glass fits within the slot 104 (Col. 3 Line 64-65).
- y. Claim 10. Burke discloses wherein the slot 104 is formed between two side sections 92 and 94 which are attached to opposite sides of a middle section 96 (Fig. 10).
- z. Claim 11. Burke discloses wherein the middle section 96 includes a threaded portion, shown as the hole surrounding screw 108 (See Fig. 10).
- aa. Claim 12. Burke discloses wherein the anchor member 108 has an elongated portion, shown as the shaft of the screw, and a base, the head of the screw (See Fig. 10).
- bb. Claim 13. Burke discloses wherein the mounting member first portion 96 is adapted to receive the anchor member 108, which is adjustable in as much as

the mounting member is removable from the anchor member or may be shimmed (See Fig. 10).

cc. Claim 14. Burke discloses wherein the anchor member 108 elongated portion is threaded (See Fig. 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 15-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al. (U.S. Pat. 5,079,798).

dd. Claim 15. Burke discloses the apparatus as described above.

Furthermore, the structure of the apparatus renders the claimed method steps obvious since the claimed method steps would be obvious to perform, see below, when installing the glass panel support.

vii. Drilling a hole into the ground would be obvious since the bracket maybe mounted in any configuration and pre-drilling a hole is known to help prevent cracking or chipping of the drilled surface.

viii. Inserting the anchor, in this case the anchor is interpreted as any threaded fastener mounted in holes 110, into the drilled hole and fixing the

anchor in position would be an obvious step when using the pre-drilled hole above.

In addition, it is shown or would be inherent to:

- ix. Mount the first portion 96 to the anchor member, shown as anchor holes 110 mounted via the base 106 (Fig. 10);
  - x. Place a portion of glass in the mounting member second portion 92, 94, slot 104 (Col. 3 Line 64-65);
  - xi. Lock the glass to the mounting member 92, 94, via the glass mounting hole (Col. 2 Lines 48-50).
- ee. Claim 16. Burke discloses inserting an attachment member 98, as part of the locking means, though the glass panel notch (Col. 3 Line 64-65) and mounting holes (See Fig. 10).

The structure of the apparatus renders the claimed method step inherent since the claimed method step would inherently be performed when assembling the glass panel support.

- ff. Claim 17. Burke discloses the anchor member as a screw, which would necessarily adjust the position of the mounting member relative to the screw when tightened.

The structure of the apparatus renders the claimed method step inherent since the claimed method step would inherently be performed when assembling the glass panel support.

gg. Claim 18. Burke discloses the middle portion 96 within the glass panel notch (Col. 3 Line 64-65) thus necessarily requiring adjusting the position of the glass panel relative to the mounting member.

The structure of the apparatus renders the claimed method step inherent since the claimed method step would inherently be performed when assembling the glass panel support.

hh. Claims 19 and 22. Burke discloses the use of the apparatus to support a glass panel. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use as many supports necessary to adequately support a given glass panel without strain (See Col. 3 Lines 24-27).

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al. (U.S. Pat. 5,079,798) in view of Marinoni (U.S. Pat. 4,689,853).

ii. Claim 20. Burke discloses the glass support, as described above, but lacks wherein the glass panel includes two mounting holes and the mounting member includes a pair of holes for each glass panel hole. Marinoni discloses a glass mount having an additional hole 12 separate from the glass panel notch 6 to help securely fasten the middle portion 26 within the notch 6 (Marinoni Fig. 1). Thus, it would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the support and glass plate of Burke with an additional fastener hole to help securely fasten the plate within the slot.

Furthermore, the structure of the apparatus combination renders the claimed method steps obvious since the claimed method steps would be inherently performed when installing the glass panel support.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN EPPES whose telephone number is (571)270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Canfield  
Examiner  
Art Unit 3635

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